

**REGULAR MEETING OF THE COMMON COUNCIL
MARCH 20, 2007
111 EAST JEFFERSON STREET, GOSHEN, INDIANA**

The Common Council of the City of Goshen, Indiana, met in the Council Chambers for a regular session on March 20, 2007 at 7:00 P.M. Presiding Officer was Mayor Kauffman with members of the Council present as follows:

**PRESENT: COUNCILMAN BLOSS, GRIMES, LANTZ, SCOTT, THOMAS
COUNCILWOMAN GAUTSCHE**

ABSENT: COUNCILMAN PURO

PRIVILEGE OF FLOOR

Glenn Null, 319 Dewey Avenue, addressed the Council and Mayor Kauffman with his concerns over the adopted three-minute rule for addressing the Council. Mr. Null questioned if the Council was adopting such rules of order to appear kinder and gentler to the public. Mr. Null stated the rule should be enforced to allow the same amount of time for everyone.

Mayor Kauffman stated the three-minute rule is enforced when a lot of people have chosen to speak on a proposed topic.

CHANGES TO AGENDA

Council President Thomas moved to change item number 7 to item number 8 and move the existing item 8 to item number 7 on the agenda. Second by Councilman Bloss and motion carried unanimously.

APPROVAL OF MINUTES

Council President Thomas moved to accept the Minutes of the Council meeting of March 6, 2007 as presented. Motion seconded by Councilwoman Gautsche and motion carried unanimously.

SPECIAL PRESENTATIONS

Mayor Kauffman presented Laura Coyne with a 'City of Goshen' flag in honor of her retirement and recognition of her services on the City of Goshen Plan Commission and the Board of Zoning Appeals.

ORDINANCE NUMBER 4417

Council President Thomas introduced Ordinance Number 4417 entitled "PROHIBITING SMOKING."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilwoman Gautsche.

Dr. Don Minter, 1716 Coventry Drive, addressed the Council stating that fourteen other Indiana Communities have smoking bans, further noting that within those communities, some include major exemptions in their Ordinances which make them weak and un-useful. Dr. Minter further used Fort Wayne, Indiana as an example of a City which has a well-defined Ordinance, also stating that any municipality should not go into this alone. Dr. Minter stated that Goshen should take leadership with the ban, further noting that any Elkhart County Ordinance would be compromised by its neighboring communities, and the County administration should be comprehensive in writing the Ordinance. Dr. Minter then introduced Dr. John Crawford from the Fort Wayne City Council.

Dr. Crawford stated that Fort Wayne first adopted a smoking ban in 1998 and in 2007; the Ordinance was updated to eliminate the previous exemptions. Dr. Crawford made the following points during a presentation to the City Council;

- In comparing fifteen Cities within the State, it was determined a smoking ban had no adverse effect on restaurants in Fort Wayne as the sale tax data had no change in any sales after one year;**
- Sales tax data had increased over a period of time;**
- The Surgeon General recommends a comprehensive Ordinance for any proposal of a ban, therefore having a ban be effective in all public places including bars, restaurants, private clubs, bowling alleys, and any place of public employment;**
- As of April, 2006, eleven states have state wide smoking bans, as well as Ireland and France;**

Dr. Crawford strongly recommended that if Goshen were to pass a smoking ban, it should have as few exemptions as possible and to follow the

Surgeon Generals recommendations. Dr. Crawford further stated Fort Wayne's updated Ordinance goes into effect in June, 2007.

Mayor Kauffman questioned Dr. Crawford if the bar owners in Fort Wayne were challenging the new Ordinance.

Dr. Crawford stated the City of Fort Wayne was sued over the original Ordinance and he was sure they would be sued again.

Councilman Bloss questioned if the Ordinance in Fort Wayne also included industries or factories, and further questioned how the Ordinance was enforced.

Dr. Crawford confirmed the question, stating the Ordinance does ban smoking in factories and industries. Dr. Crawford further stated the Ordinance was enforced by the Fire Department and was part of the Building Department's inspections; noting that the Fire Department is often waiting for the next call to come in and since they often have spare time between multiple stations enforcement of the Ordinance does not require extra staff.

Dennis McCarthy of Syracuse and owner of Double D's Hometown Bar & Grill, stated a lot of what Dr. Crawford presented was State wide facts, not just communities, which still showed huge losses in bar businesses. Further noting if there was a State wide ban, citizens couldn't drive four miles down the road to another establishment. Mr. McCarthy informed the Council of an employee poll taken throughout the bar establishments in Goshen and found that only 9 of approximately 50 employees who work in a bar do not smoke, therefore, a smoking ban would be protecting a very small percent of the employees. Mr. McCarthy further noted that if Goshen is to adopt a smoking ban, it could potentially affect 40% of the workforce, in the bar industry, which would then hurt everyone involved monetarily.

Glenn Null, 319 Dewey Avenue, addressed the Council, stating that questions raised at the meeting on March 6th have not been answered and inquired about the following items:

- Article 1, Section 2, 2.01A: Hotels and Motels may only designate 25% of their rooms as smoking.**

Mr. Null questioned this item as he feels it is a case of "Big Brother" telling business owners how to run their business. Mr. Null also questioned the ban on private clubs as some allow children to enter. Mr. Null questioned the issue of golf courses, stating if he was outside smoking, how would that be offensive to anyone, further including that fifteen feet away from any business that would apply to the Ordinance is a considerable

distance. Mr. Null questioned why the City is not cracking down on other issues such as pollution within community. Lastly, unless this Ordinance will supersede any and all limitations executed by anyone outside of the City of Goshen, the Ordinance will fail.

Dennis Yoder, 62100 Zollinger Road and owner of The Oasis, questioned the Council regarding if a motion was going to be made this evening to pass the Ordinance.

Council President Thomas stated that the Ordinance was not going to be passed this evening but rather postponed until April 17th.

Mr. Yoder stated he does not agree with the lack of exemption for private clubs as there are fees paid for belonging to a private club, therefore any kind of ban should be County wide if anything at all.

James Walls, 417 Harrison Street, stated he began smoking when cigarettes were given to him as a part of sea rations when he was in Vietnam in 1969, further stating that he had smoked for 30 years and feels that from the City level to the Federal Government, everyone should just stay out of it as it was the government that taught him to smoke in the first place.

John Huber, 19862 Bluff Drive, questioned the Council regarding if anyone had an amendment to make to the Ordinance at hand.

Council president Thomas stated that every member has a prerogative, and each member of the Council would make a motion if necessary.

Mr. Huber stated he would like to see the Ordinance have no exemptions, further noting he'd rather see a County wide Ordinance however he would like the City to take the initiative.

Brenda Cramer, 901 South Main Street, stated she is a bar employee and admitted that smoking is a horrible addiction however she is not unintelligent and chooses to smoke. Ms. Cramer further stated she would lose wages should the City impose a smoking ban, further noting not only is it her choice to smoke, it is also her choice to work in a place which allows smoking in order to make money. Ms. Cramer stated that Fort Wayne is at least four to five times bigger than Goshen, and questioned how the ban affected the smaller businesses, not the larger chain restaurants.

Jeff Schrock, 207 Green Road, stated that Ordinances imposed in Indianapolis and South Bend both excluded private clubs. Mr. Schrock stated though he is a non-smoker, he knows if he goes to a bar, he will get

"smoky." Mr. Schrock also stated that private clubs charge membership dues, therefore they should be exempt as the average Joe that goes to the Oasis can't necessarily walk into a private club and take a seat, further stating that a smoking ban would drive businesses out of Goshen. Mr. Schrock stated he was speaking tonight on behalf of the VFW and for himself, though he has not taken a poll from the VFW members.

Greg Sell, 60788 County Road 28 stated the smoking ban goes against a constitutional right of freedom by association.

Hap Williams, 1702 West Pike and representative of the Elks Club stated the Elks Club has a consensus that the City is on the wrong track with this Ordinance as it is taking away a public choice. Mr. Williams further noted the Council should be careful so they are not voted out of office. Mr. Williams also stated that the Council should not be one to legislate health.

Richard Peddler, 22995 Larkspur Court, Elkhart, stated the City is presented with an interesting conundrum as private businesses are able to be regulated, as it has been the history of the government to regulate private businesses. Mr. Peddler further stated he understands the concerns of the owners; however the health of the public supersedes any concerns. Mr. Peddler also questioned the Council if they wanted to take leadership, further noting that most of the new restaurants on County Road 17 are completely smoke free.

Mayor Kauffman stated private clubs are exempt in the Ordinance because that is the way the Clean Air Committee presented it to the City Attorney.

Kirk Miller, 1302 Prairie, stated it should not be anybody's businesses if a person is smoking or doesn't smoke and feels it would be an infringement on personal rights to impose the ban.

Mayor Kauffman questioned what the ban on golf courses entailed.

City Attorney Larry Barkes responded, stating that the ban applied to the closed building structures located on the courses only.

Mike Lehey, 1625 Windsong, Elkhart, stated if the Ordinance passed this evening, it is for the Clean Air Act, not a smoking ban, therefore it does not infringe on our freedoms, further noting it may be possible for businesses to gain more business than lose customers. Mr. Lehey stated that if Goshen passes the Ordinance, he will vote for going out to Goshen over Elkhart to attend a smoke free environment, therefore, Mr. Lehey encouraged the Council to pass the Ordinance.

Rhonda Griffen, 309 Colorado Drive, stated she is a nurse manager for Goshen Cancer Care and estimated that 20% of the population are smokers, stating they are a minority in the population, further stating there are more in the general population who would appreciate a smoking ban.

Terry Fancil, 601 East Madison and owner of the Penguin Point Restaurant, stated the Board of Works approved to put in a tavern in Goshen last year. In Bloomington, an Ordinance was put together after a ten year plan had been in place and the Ordinance that Goshen is proposing is a good in-plan, not a good start-plan. Mr. Fancil further stated that Bloomington had 231 violations since the program began and has cost the City over \$100,000 in code enforcements. Mr. Fancil also stated that if 15% of the community is pro-smoking, with another 15% against smoking, then 70% of the community must be tolerant, and tolerant of illegal immigrant activity.

Mayor Kauffman stated he has asked the community to be tolerant of diversity, not tolerant of illegal activity.

Mr. Fancil stated he does not oppose the plan itself, but does have opposition to a \$200,000 to \$300,000 cost to enforce the Ordinance. Mr. Fancil then asked for a moratorium on new businesses for 5, 7, or 10 years to find out what it would take to make this a true law, as residents of Goshen have often asked "is this really a law" as ordinances are often put in place after a gradual enforcement. Mr. Fancil then asked for everyone to be treated the same in order to "play fair" as the Ordinance is either going to work or it will be a joke.

Jim Hoover, 23332 Surey Lane, Elkhart, stated he has operated the Maple City Bowl for 2 ½ years and has been getting to know other business owners more in the past two weeks than the past two years. Mr. Hoover stated that upon discussion with these owners, he has found out that some people are not yet compliant with the water (grease trap) ordinance which passed in 2006. Mr. Hoover further stated that he does not want to become a target of the City. Therefore, if the Ordinance does go into effect he will abide by it. Mr. Hoover further stated he wants to do what is best for everybody.

Mark Potuck, 810 South 7th Street, stated that Bloomington did not phase their Ordinance in over a period of ten years as theirs is a complaint driven system. Mr. Potuck further stated the Health Department would be responsible for fielding complaints; however he does support the legislation of good health such as OSHA and seatbelts.

Jim McKee, 2359 Red Spire, stated he is against smoking and would like to run a smoke-free establishment however it is legal in the State of Indiana to sell cigarettes, therefore if Goshen should go smoke-free, the customers

will go somewhere else. Mr. McKee then questioned who would be willing to take the place of those lost customers. Mr. McKee further stated that places such as McDonalds, Burger King, and even the banks used to allow smoking but have changed over the years to ban it, per their choice. Mr. McKee also stated he cannot disagree with people in the health care industry except they need to set an example themselves.

Becky Overholt, 1312 Wilson, stated the only bar she will attend is Constant Spring because it is smoke free, further addressing Mr. McKee stating if his establishment was smoke free, she would likely attend as well.

Dennis Yoder, 62100 Zollinger Road and Chamber of Commerce representative, stated the Chamber does support a county wide smoking ban. Mr. Yoder stated that in Bloomington, two bars went out of business because of their Ordinance and the Goshen Chamber is working with the County Council and Commissioners as locally owned businesses will be put on the line if the ban passes. Mr. Yoder noted the Chamber is working for a County level Ordinance, however, he does encourage the exemptions of bars and private clubs, further stating it is not the place for Goshen to pass such an Ordinance, it is a health issue and needs to be on a higher level.

Councilman Scott questioned where the County sits with the smoking ban and placing it on their agenda.

Mr. Yoder stated three months ago, there was no possible way a smoking ban would have been placed on the agenda, however today it would be if other communities asked the issue to be addressed.

Councilman Lantz stated as recently as January and February there was no way a smoking ban would be on the 2007 agenda for Elkhart County.

Mr. Yoder stated the county would now address the issue if the local communities state they favor a county wide ordinance.

Mayor Kauffman closed the public input portion of Ordinance Number 4417.

Councilman Grimes submitted a written statement with the following points.

- The Ordinance at hand may be the right Ordinance, but at the wrong level;
- Personally opposed to smoking ban as it is and would like to allow more exemptions;

- **What some call leadership is actually coercion or overextension as leadership involves finding common ground and respecting minority perspectives;**
- **The needs of non-smokers can be met without forcing a total ban on everyone;**
- **Regulations should be logical and equitable**

Councilman Grimes also noted he can not vote in favor of the Ordinance as it is currently written.

Councilman Scott stated that people who are affected by the smoking ban are likely to go outside the community instead.

Councilwoman Gautsche proposed two changes to the Ordinance as follows:

1. **Delete private clubs from exemptions and move to prohibitions. Furthermore, have it read "for any establishment serving food and drink: and**
2. **Delay the onset of the Ordinance to January 1, 2008 as this will allow eight months for other cities in Elkhart County, and Elkhart County to draft and pass their own comprehensive Ordinance; therefore it is more fair to everyone.**

Councilman Lantz stated the Ordinance at hand is like "Big Brother" telling people what they can and cannot do, which he has a problem with. Councilman Lantz proposed the following change:

3. **The Ordinance would be exempt to all bars and places serving food, such as private clubs.**

Mayor Kauffman stated that Councilman Puro has asked for the courtesy to allow him to be here to participate in the vote.

Council President Thomas stated he supports the change to exempt bars with the language of over 21 years old or family separations included.

Council President Thomas he wants to be clear about the kind of language used in the Ordinance.

City Attorney Larry Barkes stated the Ordinance reads as 18 years or older as 18 is the age of consent in Indiana, though a person must be 21 to drink alcohol.

Council President Thomas stated there must be no open spaces between bar and family areas of shared restaurants, further questioning if people between 18 and 21 were allowed in bars.

Attorney Barkes stated they are technically allowed to enter the establishment, but they are not allowed to be served.

Councilman Bloss commended Dr. Minter and appreciates what the Board of Health has done since 2006. Councilman Bloss further encouraged the County Health Department to do more and to do whatever it takes for the County to take interest in a smoking ban. Councilman Bloss also stated he feels as a City Councilman, he does not feel he has the right to tell businesses what they can and can not do as a lot of places are now non-smoking establishments and further feels confident that something is going to happen with this issue. Councilman Bloss acknowledged Dr. Crawford from Fort Wayne with how easily the smoking ordinance was policed as it would be a considerable job. Further whatever is done should be on a county level, therefore, he would not vote in favor of the Ordinance.

Council President Thomas moved to postpone the Ordinance to the April 17, 2007 meeting of the Council. Second by Councilman Bloss and motion passed unanimously.

RESOLUTION NUMBER 2007-10

Council President Thomas introduced Resolution Number 2007-10 entitled "A RESOLUTION OF THE GOSHEN CITY COUNCIL TO PETITION FOR AND SUPPORT A COMPREHENSIVE COUNTY CLEAN AIR ORDINANCE."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion not seconded immediately.

Councilwoman Gautsche stated she feels this Resolution needs to go with Ordinance Number 4417.

Councilman Bloss stated he is opposed to asking the County to impose a resolution regarding a smoking ban.

Councilwoman Gautsche stated the County wants the Cities to take the initiative.

John Huber, 19682 Bluff Drive, stated he is befuddled with the Council as they want the County to take the lead in proposing a county-wide smoking ban, but refuse to pass a Resolution asking the County to take such a lead.

Glenn Null, 319 Dewey Avenue, questioned the Council as he did not see the reason why the City needed a Resolution to ask the County to consider a smoking ban. Mr. Null further stated the City was half way there with a ban itself, further questioning the City how many trees had to be cut down to print the Resolution. Furthermore, that by passing the Resolution, the City is telling the County that the City is "running with the ball," and is redundant and a waste of time.

Mayor Kauffman pointed out that County Councilman Mike Yoder wants a Resolution from the City.

Mr. Null continued by stating he is surprised at the lack of a motion to second the Resolution and the Council usually does not go against itself.

Mark Potuck, 8105 S. 7th Street, stated the Resolution is simply stating the City is in favor of a County-wide Ordinance; therefore the Resolution is pretty worthless.

Dave Daughtery, Goshen Chamber of Commerce President, stated the County Commissioners and the Goshen Chamber of Commerce both feel the Resolution is important.

Richard Peddler, 22995 Larksburg, stated the Council should pass the Resolution and the Resolution should not supersede any Ordinance passed.

Councilman Lantz seconded the original motion to pass Resolution Number 2007-10, stating in the interest of a 5-1 vote, and to move for further discussion.

Councilwoman Gautsche stated she is in favor of the Resolution.

Councilman Scott agreed, stating he too is in favor of the Resolution, adding Terry Rodino and Mike Yoder of the Elkhart County Council were also in favor of said Resolution, stating the topic was discussed at the January 2007 Council Retreat.

Council President Thomas proposed that all of the City Council Members favor a County-wide Ordinance.

Councilman Grimes questioned if we are asking the County to allow or not allow exemptions, further stating he was unclear if the Resolution was intentionally silent on this issue.

Dave Daugherty, Goshen Chamber of Commerce President, stated he is open to exclude bars and private clubs from the Ordinance and Resolution.

Councilman Grimes stated he feared if people could not drink and smoke in a public place, the situation would lead to more house parties and illegal activities such as noise violations.

Jim McKee, owner of Bosco's, stated he would be supportive of a County-wide ban, but would not support a ban within the City limits only.

Councilman Bloss questioned if the vote for the Ordinance would still occur in April.

Council President Thomas stated the Ordinance will be on the Agenda in April.

Councilman Bloss stated he would be in favor of January 1, 2008 as a start date for the Ordinance, but will not vote for the Resolution to ask the County to propose their own Ordinance.

Councilman Grimes moved to amend Resolution 2007-10, stating the second point 'A' could have a fourth sub-point added, reading, "may include appropriate exemptions" to include bars and private clubs as those exempt from having to follow the smoking ban. Motion seconded by Council President Thomas.

Council President Thomas asked for a roll call vote to add the amendment. The roll call was as follows:

AYES: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: GAUTSCHE: BLOSS

By a 4-2 vote of the Council, the amendment to Resolution 2007-10 was passed.

Council President Thomas asked for a roll call vote to pass Resolution 2007-10. The roll call was as follows:

The Council roll call vote was as follows:

AYES: GAUTSCHE: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: BLOSS

By 5-1 vote of the Council, Resolution Number 2007-10 was passed.

RESOLUTION NUMBER 2007-11

Council President Thomas introduced Resolution Number 2007-11 entitled "INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF ELKHART AND THE CITY OF GOSHEN."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

City Attorney Larry Barkes stated the Resolution was in regard to the County Road 17 utilities (water & sewer mains) that have to be moved. The Resolution states the City agrees to do the bidding and the cost of the project is to be supported by the County. Changes were made to the County Participation portion of the Resolution as follows:

- Added at the end of paragraph C: City is not responsible for any cost overruns relative to construction costs except to the extent City, through its Board of Public Works and Safety, specifically approve in writing such overruns without County's written consent.**
- Added at the end of paragraph D: City is not responsible for any cost overruns relative to Engineering Services except to the extent City, through its Board of Public Works and Safety, specifically approves in writing such overruns without County's written consent.**

Council President Thomas questioned Mr. Barkes if the changes to the Resolution are an amendment, which Mr. Barkes responded 'no,' as the changes are an addition to the County's proposed Resolution and an effort for the City to protect itself from potential costs imposed by the County.

By 6-0 unanimous vote of the Council, Resolution Number 2007-11 was passed.

RESOLUTION NUMBER 2007-12

Council President Thomas introduced Resolution Number 2007-12 entitled "A RESOLUTION APPROVING THE AGREEMENT WITH THE WELSH FAMILY TRUST CONCERNING THE SEWER CONNECTION FEE AT 2600 ELKHART ROAD, GOSHEN, INDIANA."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

City Attorney Larry Barkes stated the Resolution was previously discussed at the prior Council Meeting on March 6th, and was in regards to a waiver of a sewer connection fee which is currently charged at \$0.05 per square foot of property.

Scott Welsh, 4242 Hampton Circle, stated he is in agreement with the Resolution and expressed thanks and gratitude to Shannon Marks and the rest of the Goshen City Legal Department; further stating when the original easement was drawn, he was told there would not be a charge for the sewer hook-up.

Mr. Barkes stated he had spoke with a developer involved and everyone else that had developed on the property in question did not have to pay a sewer connection fee as it was the family's intent to have it free of charge.

Glenn Null, 319 Dewey Avenue, questioned how much money the Council is talking about waiving.

Mr. Barkes stated the sewer connection fee would be approximately \$12,000.00.

Mr. Null then reminded the Council the only department which makes money for the City is the Utilities department, further stating the original agreement states to pay a connection fee when the agreements change.

Mayor Kauffman stated the original agreement did not state a charge would be owed if the agreement was changed.

Mr. Barkes disagreed, stating the agreement did state a charge would be assessed to further developers should the agreement change.

By 4-2 vote of the Council, Resolution Number 2007-12 was passed.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: LANTZ: SCOTT:

NAYS: GRIMES: THOMAS

RESOLUTION NUMBER 2007-13

Council President Thomas introduced Resolution Number 2007-13 entitled "A RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY WATER AND SEWER UTILITIES AND APPROVING THE AGREEMENT IN LIEU OF ANNEXATION WITH GRC INVESTMENTS, LLC."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

City Attorney Larry Barks stated the agreement terms indicate authorization to extend water and sewer to the Crossing subdivision.

Chad Lieby, GRC Investments, and Barry Pharis with Brads-Ko Engineering stated the property in question is approximately a 50 (fifty) acre site located between Plymouth Avenue and the County Road 38 Professional Park, and Plymouth Avenue and State Road 19. The utility extension is necessary to expand the road to include three lanes both east and west to allow for both right and left turn lanes. The subdivision in development would use approximately 24 to 27 acres and include single family housing as well as some condos, and some single family attached housing.

Mr. Lieby stated the City will receive every penny due, however they need to have the sanitary sewer and water extension to coincide with the current construction and to move forward with additional housing on the south side of Goshen.

Councilwoman Gautsche stated there was already housing on that side of town and questioned if that was a part of the development by GRC. The representative from Brads-Ko Engineering stated that GRC is new to Goshen and this was their first project within the City.

Chad Lieby, 1721 Canterbury Court, GRC Investments, stated that GRC builds developments with the contractors involved.

By a 6-0 vote of the Council Resolution Number 2007-13 was passed.

RESOLUTION NUMBER 2007-14

Council President Thomas introduced Resolution Number 2007-14 entitled "A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT FOR THE TRANSFER OF PLANNING, ZONING, AND DEVELOPMENTAL JURISDICTION FOR AN AREA SOUTH OF STATE ROAD 119 AND EAST OF COUNTY ROAD 19 FROM ELKHART COUNTY TO THE CITY OF GOSHEN."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

Council President Thomas questioned if the Resolution was a transfer of jurisdiction and if this was an Interlocal Agreement for the same development discussed above.

City Attorney Larry Barkes stated the Agreement is to allow a statute stating people on the plan commission may live within a two mile fringe around the City.

Council President Thomas questioned the Resolution, noting it would allow people who live in the county to vote on City issues.

Mr. Barkes stated that the Resolution applied only to unincorporated areas that would eventually become a part of the Goshen City limits.

By 5-1 vote of the Council, Resolution Number 2007-14 was passed.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: THOMAS

NAYS: SCOTT

ORDINANCE NUMBER 4420

Council President Thomas introduced Ordinance Number 4420 entitled "ACCEPTANCE OF TERRITORIAL AUTHORITY FROM ELKHART COUNTY FOR UNINCORPORATED REAL ESTATE CONTIGUOUS TO THE CITY OF GOSHEN IN THE AREA SOUTH OF STATE ROAD 119 AND EAST OF COUNTY ROAD 19."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Grimes.

By a 6-0 unanimous vote of the Council the motion passed.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4420 DULY PASSED AND ADOPTED THIS 20th DAY OF MARCH, 2007.)

RESOLUTION NUMBER 2007-15

Council President Thomas introduced Resolution Number 2007-15 entitled "A RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY WATER AND SEWER UTILITIES AND APPROVING THE WATER AND SEWER AGREEMENT WITH LARRY W. SHIRK AND ESTHER MAE SHIRK AND DJ CONSTRUCTION, CO., INC.."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

A representative from DJ Construction addressed the Council, stating the Resolution was an effort to extend the utilities from Clover Trails to Greene Road, therefore giving the Shirk's the right to connect to City utilities at the expense of DJ Construction; therefore the City would not lose a penny.

Councilwoman Gautsche chose to abstain from the Council vote.

By 5-0-1 unanimous vote of the Council, Resolution Number 2007-15 was passed.

The Council roll call vote was as follows:

AYES: BLOSS: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: NONE

ABSTAIN: GAUTSCHE:

ORDINANCE NUMBER 4413

Council President Thomas introduced Ordinance Number 4413 entitled "AMEND FIRE DEPARTMENT SALARY ORDINANCE 4376 TO APPROVE A BONUS TO SERVE AS A PARAMEDIC."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Grimes.

Fire Chief Danny Sink addressed the Council, stating that approximately 4 or 5 years ago, serving as a paramedic was no longer a condition of employment but made voluntary instead. So far, only three of the past eleven hires have chosen to attend paramedic school; therefore, Chief Sink would like to add incentive to the program. Chief Sink noted Assistant Chief Castetter assisted in the process of determining what kind of incentive would be appropriate, concluding upon a one-time bonus of \$7,500.00 per person with at least six years of service as a paramedic. Chief Sink further noted that upon research, the proposed bonus would be cheaper to the City than the potential overtime earned by the employee.

Councilman Scott questioned how the incentive would work and what happens if the paramedic decides to leave once the bonus is received.

Chief Sink responded, stating the bonus is not prorated but paid in a lump sum and the entire portion is to be paid back if their entire six years has not been served, further stating the incentive is an effort to have more medics on staff.

By a 6-0 unanimous vote of the Council the motion passed.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

Councilwoman Gautsche questioned the length of time for medic school, estimating it was two years at one class per week.

Chief Sink stated the classes are now twice a week for 18 months and six months of service with the department, however it is different for the Elkhart Fire Department as they are associated with Vincennes University.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4413 DULY PASSED AND ADOPTED THIS 20th DAY OF MARCH 2007.)

ORDINANCE NUMBER 4421

Council President Thomas introduced Ordinance Number 4421 entitled "AMENDING THE MAXIMUM COMPENSATION FOR THE 2007 CALENDAR YEAR FOR THE APPOINTIVE OFFICERS, DEPUTIES, AND OTHER EMPLOYEES OF THE CITY OF GOSHEN AS APPROVED BY ORDINANCE 4375 AND THE APPOINTIVE OFFICERS, DEPUTIES, AND OTHER EMPLOYEES OF THE CITY OF GOSHEN WATER AND SEWER UTILITIES AND CITY OF GOSHEN STORM WATER UTILITY AS APPROVED BY ORDINANCE 4387."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Grimes.

Mayor Kauffman informed the Council the Ordinance is being amended to allow part time employees to be provided at a lesser amount.

By a 6-0 unanimous vote of the Council the motion passed.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Scott.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4421 DULY PASSED AND ADOPTED THIS DAY 20th OF MARCH 2007.)

PUBLIC HEARING ON ORDINANCE NUMBER 4419

Mayor Kauffman opened the Public Hearing on Ordinance Number 4419, An Additional Appropriation Ordinance.

Mayor Kauffman closed the Public Hearing as no person chose to speak.

ORDINANCE NUMBER 4419

Council President Thomas introduced Ordinance Number 4419 entitled "ADDITIONAL APPROPRIATION ORDINANCE."

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Grimes.

By a 6-0 unanimous vote of the Council the motion passed.

Councilwoman Gautsche questioned if the request for the MVH Overtime was due to the heavy snowfall since January and if the needs for the appropriation came consecutively.

Street Commissioner Barb LaDow stated that it was to cover the overtime costs and to replenish lines which were borrowed from to cover the current overtime expenses. Further noting she wants to get it under control and out of the way early in the year. Ms. LaDow stated the amount in question was spent on overtime for street cleaning on the snow dates.

Councilman Scott expressed his praise to the Street Department.

Ms. LaDow noted that part time funds were already used to cover the last payroll in overtime costs.

Council President Thomas questioned if in November and December of this year, would another additional appropriation be necessary.

Mayor Kauffman stated the Central Garage was hurt too by overtime costs, not just the Street Department.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Thomas asked the Third-Deputy Clerk-Treasurer to read the Ordinance by title only for second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4419 DULY PASSED AND ADOPTED THIS 20th DAY OF MARCH 2007.)

ITEMS OF DISCUSSION

Redevelopment Commission Retirement

Council President Thomas announced that Wes Culver had retired from the City of Goshen Redevelopment Commission and would like the Council to submit potential names at the April 3rd meeting for nomination to the Commission.

Council President Thomas moved to adjourn. Motion seconded by Councilwoman Gautsche and the meeting adjourned at 9:45 P.M.